

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4131-01
Bill No.: HB 1513
Subject: Economic Development; Economic Development Dept.; Science and Technology;
Tax Credit
Type: Original
Date: February 1, 2010

Bill Summary: Would authorize a sales tax exemption on all utilities including telecommunications services, machinery, equipment, or computers, and all retail sales of tangible personal property and materials for the purpose of constructing, repairing, or remodeling facilities used by data storage centers and server farm facilities.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue Fund	(Unknown)	(Unknown)	(Unknown)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
School District Trust	(Unknown)	(Unknown)	(Unknown)
Conservation Commission	(Unknown)	(Unknown)	(Unknown)
Parks, and Soil and Water	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

In response to similar proposals, officials from the **Office of the Secretary of State (SOS)** stated that many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

ASSUMPTION (continued)

Officials from the **Office of Administration, Division of Budget and Planning** assume the proposed legislation would not result in additional costs or savings to their organization.

This proposal would create a sales tax exemption for "data center" or "server farm" facilities that invest \$1 million annually. The proposal does not define these terms, and BAP assumes these industries would fall into NAICS category 541512 Computer Systems Design, of which there are approximately 500 firms in Missouri.

The proposal would require the Department of Economic Development (DED) to certify the project, but would not clearly require the \$1 million annual investment to be in Missouri or from Missouri firms. This program may encourage other economic activity, but BAP does not have data to estimate the induced revenues. DED may have such an estimate.

Officials from the **Department of Conservation** (MDC) assume this proposal would authorize an exemption for sales and use tax for certain utilities and all sales at retail of certain tangible personal property and material used by data storage center and server farm facilities.

MDC officials stated that this proposal could have a significant negative fiscal impact on MDC funds which could exceed \$100,000 annually. However, MDC is unable to provide an exact amount and will rely on DOR for the fiscal impact of this legislation.

Officials from the **Department of Economic Development** (DED) assume this proposal would create sales and use tax exemptions for data storage centers and server farm facilities. A project plan would be required for data storage centers and server farm facilities seeking the tax exemption. DED would be responsible for certifying the projects in conjunction with the Department of Revenue. The proposal would also require DED to conduct random audits to ensure compliance with the intent of the proposed legislation.

The Division of Business and Community Services would anticipate the need for one additional FTE to ensure compliance and perform the auditing functions required by the proposed legislation. This employee would be an Economic Development Incentive Specialist III and would be responsible for reviewing the project plan applications to make sure they meet the criteria of the program, and conducting random audits to ensure compliance with the requirements.

ASSUMPTION (continued)

DED submitted a cost estimate for the proposal including salaries, benefits, equipment, and expense totaling \$63,561 for FY 2011, \$71,571 for FY 2012, and \$73,903 for FY 2013.

Oversight assumes there would be a limited number of entities eligible for this sales and use tax exemption and that DED could absorb the additional workload with existing resources. If this proposal created an unanticipated increase in the DED workload, or if multiple such proposals were implemented, resources could be requested through the budget process.

Officials from the **Department of Elementary and Secondary Education** assume this proposal would not impact their organization or local schools, other than any resulting impact from the reduction of state revenues.

Officials from the **Department of Natural Resources** (DNR) stated that this proposal, if enacted, would specifically exempt from state and local sales and use taxes utilities including telecommunication services, as well as machinery, equipment, or computers used by any data storage center and server farm facility and all sales at retail of tangible personal property and materials for the purpose of constructing, repairing, or remodeling any facility used as a data storage center and server farm.

DNR's Parks and Soils Sales Tax funds are derived from a one-tenth of one percent sales and use tax pursuant, and creating additional sales tax exemptions would decrease the amount of funding available in these funds. The funds have been used for the acquisition and development, maintenance and operation of state parks and historic sites and to assist agricultural landowners through voluntary programs. Any additional sales tax exemption would be an unknown loss to the Parks and Soils Sales Tax Funds.

Officials from the **Department of Revenue** (DOR) assume this proposal would create an exemption from sales taxes beginning January 1, 2011, for all electrical energy, gas, water, and other utilities including telecommunication services, machinery, equipment, or computers used by any data storage center and server farm facility, and all sales at retail of tangible personal property and materials for the purpose of constructing, repairing, or remodeling any facility used as a data storage center and server farm.

DOR officials stated that they did not have a way to determine how much sales tax revenue would be lost due to this exemption.

ASSUMPTION (continued)

To be eligible for the exemption, a minimum investment of \$1.0 million per year for any data storage center and server farm facility would be required. Any data storage center and server farm facility seeking a tax exemption would be required to submit a project plan to the Department of Economic Development. Any construction of any data storage center and server farm facility within a certified area shall be phased in without any penalty or time frame applied to its construction.

DOR officials assume that an exemption form would be needed to clearly identify companies eligible for this exemption.

Administrative impact:

Collections and Tax Assistance would anticipate additional contacts due to this exemption, and that one FTE Revenue Processing Technician I (Range 10, Step L) would be required for every additional 24,000 contacts annually to the registration section; one FTE Revenue Processing Technician I (Range 10, Step L) would be required for every additional 4,800 contacts annually to the tax assistance offices.

Sales Tax would anticipate one FTE Revenue Processing Technician I (Range 10, Step L) for every 1,000 exemptions processed under this statute.

DOR officials also noted that under current provisions, Excise Tax personnel calculate and deduct sales tax prior to refunding the motor fuel tax on refunds of diesel fuel used for non-highway purposes. This proposal would eliminate that processing step thus reducing the amount of time spent in processing the refund claim. Also under current provisions, sales tax is charged on dyed diesel fuel purchased at retail, so under this proposal retailers would not have to charge the sales tax on these exempt purchases.

In summary, DOR officials submitted an estimate of the cost to implement this proposal including three additional employees with benefits, expense, and equipment totaling \$118,594 for FY 2011, \$126,244 for FY 2012, and \$130,032 for FY 2013.

Oversight assumes there would be a limited number of entities eligible for this sales and use tax exemption and that DOR could absorb the additional workload with existing resources. If this proposal created a significant unanticipated increase in the DOR workload, or if multiple such proposals were implemented, resources could be requested through the budget process.

ASSUMPTION (continued)

Officials from **Cass County** assume the potential fiscal impact of the proposal is unknown; county officials assume there could be a positive impact in terms of possible job creation.

Officials from **St. Louis County** assume the proposal would not result in a large revenue reduction for their organization.

Officials from the **City of Centralia** assume this proposal would have no fiscal impact on their organization.

Oversight will indicate an unknown loss to those state funds which receive sales and use tax revenues, and to local governments.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE FUND			
<u>Revenue reduction - sales tax exemption</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
SCHOOL DISTRICT TRUST FUND			
<u>Revenue reduction - sales tax exemption</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
CONSERVATION COMMISSION FUND			
<u>Revenue reduction - sales tax exemption</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
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PARKS, AND SOIL AND WATER FUNDS

<u>Revenue reduction</u> - sales tax exemption	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUNDS

<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
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LOCAL GOVERNMENTS

<u>Revenue reduction</u> - sales tax exemption	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS

<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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FISCAL IMPACT - Small Business

This proposal could create significant cost savings for eligible businesses.

FISCAL DESCRIPTION

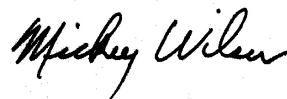
This proposal would authorize a sales tax exemption on utilities including telecommunications services, machinery, equipment, or computers, and all retail sales of tangible personal property and materials for the purpose of constructing, repairing, or remodeling facilities used by data storage centers and server farm facilities. To be eligible for these exemptions, the facility must invest at least \$1 million every 12 months. Facilities wishing to receive these exemptions would be required to submit a project plan to the Department of Economic Development, which would certify the project in conjunction with the Department of Revenue.

The Department of Economic Development would conduct random audits of projects to make certain that the intent of these provisions is followed. Any construction of a facility within a certified area will be phased in.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration
Division of Budget and Planning
Department of Conservation
Department of Economic Development
Department of Elementary and Secondary Education
Department of Natural Resources
Department of Revenue
Cass County
St. Louis County
City of Centralia



Mickey Wilson, CPA
Director

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